

LICENSING COLLABORATIVE CHILD CARE PROGRAMS

Collaborations between child care centers, Head Start Programs and public and private 4-year-old kindergarten (4K) and early childhood special education programs are becoming more familiar in communities around Wisconsin. Some school districts offer 3-year-old kindergarten (3K – Milwaukee Public Schools only) and 5-year-old kindergarten (5K) in community-based collaborative programs as well. These community-based collaborative programs are designed to meet the needs of children and families in programs that provide services in locations that are familiar to the children and minimize transitions between programs and services.

Listed below are answers to some of the most frequently asked questions regarding the impact that the child care licensing laws and the Wisconsin Shares Child Care Subsidy payment regulations have on community-based collaborative programs. The questions reference 4K programs, but the same answers would apply to a community-based 3K or 5K program or a collaborative with an early childhood special education program.

1. What is the difference between a child care center and a preschool?

There is no difference between a child care center and a preschool or nursery school when it comes to child care licensing. Because preschools typically operate for 2 ½ to 3 ½ hours per session, some of the licensing rules do not apply. Some rules that may not apply are those related to serving meals, providing naps, programming for the beginning and end of the day and those rules related to the care of infants and toddlers and school-age children unless the program serves children of these ages.

2. When does a program need to have a license to operate a child care center?

The Wisconsin Child Care licensing law is found in s. 48.65 Wis. Stats., and says in pertinent part that:

- (1) *No person may for compensation provide care and supervision for 4 or more children under the age of seven for less than 24 hours a day unless that person obtains a license to operate a day care center from the department...*
- (2) *This section does not include any of the following:*
 - (a) *A relative or guardian of a child who provides care and supervision for the child.*
 - (b) *A public or parochial school.*
 - (c) *A person employed to come to the home of the child's parent or guardian for less than 24 hours a day.*
 - (d) *A county, city, village, town, school district or library that provides programs primarily intended for recreational or social purposes.*

3. Do child care programs operated by public schools need to be licensed?

No. Under s. 48.65, Wis. Stats., public or private schools are exempt from licensure. (See question #2.)

Child care programs operated by public schools are, however, required to meet the child care licensing rules established by the Wisconsin department of health and family services under s. 120.13(14), Wis. Stats., which says in pertinent part that a school board may...

- (14) *"Day Care Programs. Establish and provide or contract for the provision of day care programs for children. The school board may receive federal or state funds for this purpose ... Day care programs established under this subsection shall meet the standards for licensed day care centers established by the department of health and family services."*

4. Do child care programs operated by private schools need to be licensed?

No. Private schools do not need to be licensed to operate a child care center except as it applies to Wisconsin Shares Child Care Subsidy payments as noted in question #27 below. Private schools are defined in the state education statutes (see question #5). Parochial schools and private schools have the same definition per the Department of Health and Family Services and the Department of Public Instruction.

5. What are the state requirements for private schools?

Private school means an institution with a private educational program that meets all of the criteria under s. 118.165(1), Wis. Stats., or is determined to be a private school by the state superintendent under s. 118.167, Wis. Stats.

118.165 Private schools.

- (1) *An institution is a private school if its educational program meets all of the following criteria:*
- (a) *The primary purpose of the program is to provide private or religious-based education.*
 - (b) *The program is privately controlled.*
 - (c) *The program provides at least 875 hours of instruction each school year.*
 - (d) *The program provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health. This subsection does not require the program to include in its curriculum any concept, topic or practice in conflict with the program's religious doctrines or to exclude from its curriculum any concept, topic or practice consistent with the program's religious doctrines.*
 - (e) *The program is not operated or instituted for the purpose of avoiding or circumventing the compulsory school attendance requirement under s. 118.15(1)(a).*
 - (f) *The pupils in the institution's educational program, in the ordinary course of events, return annually to the home of their parents or guardians for not less than 2 months of summer vacation, or the institution is licensed as a child welfare agency under s. 48.60(1).*

- (2) *An institution may request the state superintendent to approve the institution's educational program as a private school. The state superintendent shall base his or her approval solely on the criteria under sub. (1).*

118.167 Private School Determination by State Superintendent. If an association that regulates or accredits private educational institutions in this state submits an affidavit to the state superintendent attesting that the institution meets or exceeds all of the criteria under s. 118.165 and the state superintendent finds that the institution does meet or exceed all of the criteria under s. 118.165, the state superintendent shall determine that the institution is a private school. If at any time the state superintendent finds that an institution determined to be a private school under this section no longer meets the criteria under s. 118.165, the state superintendent may withdraw the determination.

In addition, the facility in which the school is located would have to meet the same building code requirements that are applied to public schools. The school would be a private business and would have to adhere to certain employment-related laws. The school simply notifies the district in which it is located that it will be operating a private school. The Department of Public Instruction is notified by the local public school district that a private school is operating and the private school must file an enrollment report form (PI-1207) each September.

For more information on private schools or a list of private schools in Wisconsin, see the Department of Public Instruction website at: <http://www.dpi.state.wi.us/dpi/dfm/sms/private.html>

6. Are there rules that say when a program has to become a private school?

The statutory definition of a private school does not mention specific grade levels. (See question #5.) However, if children age 6 and older are not enrolled in a public school, a private school or a home-based program, their parents could be found to be in violation of the compulsory school attendance law. In addition, the child care licensing law requires that programs that care for 4 or more children under the age of 7 need to be licensed as a child care center unless they are a public, parochial or private school. Therefore, if a program wanted to offer any grades above kindergarten, it would need to be a private school so that those children aged 6 and older would not be considered truant.

7. Why are 4K statutes and program requirements different from child care and Head Start requirements?

The main reason for the differences is that each entity is subject to the rules of a different federal and/or state governmental agency. School districts must meet Wisconsin State Educational Standards and requirements from the Wisconsin Department of Public Instruction and the U.S. Department of Education. Child care providers must meet HFS 46, Licensing Rules for Group Child Care Centers which are standards established by the Wisconsin Department of Health and Family Services. Head Start is a federal program administered by the U.S. Department of Health and Human Services. A comparison of 4K, special education and child care licensing regulations can be found at www.collaboratingpartners.com/weecp_04.htm.

8. Can a school district work with a family child care provider to implement 4K?

Currently, most collaborations between schools and family child care focus on participation in school-sponsored professional development events, joint field trips, transition orientations or transportation. Districts may interface with family child care providers as part of the outreach component.

Districts that want to work with family child care to provide 4K must still ensure that all of the 4K regulations are implemented and that the family child care home is a licensed child care program.

9. Can community partnerships exist with religious-based programs?

Four-year-old partnerships can occur with religious-based schools and child care centers with certain assurances. A district must ensure that no religious programming is going on during the "4K" part of the day. The program must be willing to take any child into the program for 4K without religious-based requirements. Districts should consider how they already work with religious programs in terms of special education, transportation, Title I or any other connections to be consistent in how to address the environment issues and whether there are other written agreements, etc. Funds received from the district by a faith-based partner cannot be used for any religious purposes and must only be for 4K purposes.

10. Are requirements for teacher qualifications, staff-to-child ratios and class sizes different when 4K is being implemented in community-based collaborative settings?

When four-year-old kindergarten is implemented in child care settings, child care licensing regulations will need to be followed. The regulations for 4-year-old children require staff-to-child ratios of 1:13 and a maximum group size of 24. In a community-based 4K collaborative program that has a group of 24 children, one person would need to be qualified as a teacher by the Department of Public Instruction. Teachers in four-year-old kindergarten must hold a prekindergarten or kindergarten license (e.g., #080, prekindergarten; #090, PK-K; #083, PK-3; #100, kindergarten, etc.), preferably the prekindergarten or prekindergarten-grade 3 #083 or the PI 34 Early Childhood Level (birth through age 8). The other person could be a paraprofessional or child care teacher or assistant teacher qualified.

11. If a district is going to contract with child care or Head Start agencies, do those agencies have to use the same curriculum as the district?

Regardless of where a district holds 4K, or who is providing it, all 4K programs must meet the state requirements for curriculum content and the district's curriculum expectations.

It is helpful to note that the Wisconsin Model Early Learning Standards (WMELS) were developed as a tool to guide parents, child care, Head Start and kindergarten programs as they plan activities that will provide a developmentally appropriate environment for children. The WMELS provide a unifying approach for community settings implementing 4K in community approaches. More information on WMELS can be found at <http://www.collaboratingpartners.com/EarlyLS.htm>.

12. Are all facilities used for the 4K instruction program sponsored by the school district required to meet the building requirements for a "SCHOOL" under the jurisdiction of the Department of Commerce?

The facilities used for 4K instruction must meet the most stringent applicable building code. Therefore, because child care building codes are stricter than school codes, the district must meet the child care code and be in compliance with school codes. Local municipalities may have stricter code requirements.

13. Do collaborative 4K programs that are located in a public school building and operated jointly with a public school and a child care or Head Start program need to be licensed?

If the public school is assuming the responsibility for the collaborative program, the program does not need to be licensed. If responsibility for the collaborative program is shared by the partners in the collaboration, the child care or Head Start program must be licensed. A collaboration or partnership agreement that has been signed by all the parties in the collaborative will be used to determine who has responsibility for the collaborative program (see question #21). A license may be issued to the collaborative or to the child care or Head Start Program.

Once a license is issued to a collaborative program, the program is subject to routine monitoring visits by a DHFS licensing specialist. These visits will focus on compliance with licensing rules. The agency that holds the license is responsible for maintaining compliance with the licensing rules. (See question #22.)

14. Do collaborative 4K programs that are operated jointly with a private school and a child care or Head Start program need to be licensed?

If the private school is assuming the responsibility for the collaborative program, and the private school does not wish to receive child care subsidy reimbursement as specified in question #28, the program does not need to be licensed. If responsibility for the collaborative program is shared by the partners in the collaboration, or the private school wishes to be eligible to receive child care subsidy payments, the program must be licensed. A collaboration or partnership agreement signed by all the parties in the collaborative will be used to determine who has responsibility for the collaborative program (see question #21). A license may be issued to the collaborative or to the private school, child care or Head Start Program.

Once a license is issued to a collaborative program, the program is subject to routine monitoring visits by a DHFS licensing specialist. These visits will focus on compliance with licensing rules. The agency that holds the license is responsible for maintaining compliance with the licensing rules. (See question #22.)

An Early Childhood Special Education program can only provide services through an Individualized Education Program to children in licensed child care programs. If the private school is not licensed, the school would provide special education through an Individualized Service Plan. More information can be found at: <http://www.dpi.state.wi.us/dpi/dlsea/een/bul99-07.html>.

15. How do the child care licensing rules apply when a collaborative 4K program operated by a public school and a licensed child care or Head Start program is located in a licensed child care or Head Start setting?

The licensed center must meet the applicable child care licensing rules. If there is a public school employee present (i.e., working as a teacher in the collaborative program) the public school is responsible for maintaining staff information including background checks. Supervision of the public school employee and program planning responsibilities must be addressed in the collaborative or partnership agreement (See question #21).

Once a license is issued to a program in a collaborative, the program is subject to routine monitoring visits by a DHFS licensing specialist. These visits will focus on compliance with licensing rules. (See question #22.)

16. How do the child care licensing rules apply when 2 child care programs (for instance, a child care program and a Head Start program) occupy space in the same building but operate independently?

If no collaborative programming is going on and children remain with one program for an entire session, each program is licensed separately. See question #18 for information about programs operated collaboratively.

17. How do the child care licensing rules apply when a public school rents space in the public school to a child care program?

The child care center is licensed under the child care licensing rules.

18. How do the child care licensing rules apply when a Head Start program and a child care program operate collaboratively?

There are two options available to these types of programs depending on the specifics of the collaborative or partnership agreement between the agencies.

- If both programs equally share responsibility for meeting the licensing rules a single license is issued in the name of both agencies.
- If either the Head Start or the child care center has sole responsibility for ensuring that the licensing rules are met, then a license is issued in that agency's name. A license may be issued to the collaborative or to the child care or Head Start Program.

Once a license is issued to a collaborative program, the program is subject to routine monitoring visits by a DHFS licensing specialist. These visits will focus on compliance with licensing rules. The agency that holds the license is responsible for maintaining compliance with the licensing rules. (See question #22.)

19. How do the child care licensing rules apply when a collaborative 4K program operates in a public school building with a child care or Head Start program?

The child care or Head Start program must be licensed unless the school district assumes responsibility for the complete program as described in question #13. The child care or Head Start program must meet the licensing requirements. Caregiver background checks must be completed on all staff of the licensed child care or Head Start program. School district personnel who may be involved in the collaborative program must meet the background check requirements of the school district. Each agency is responsible for maintaining records of the staff and children for their program. Other responsibilities should be defined in an interagency agreement. (See question #21.)

Once a license is issued to a collaborative program, the program is subject to routine monitoring visits by a DHFS licensing specialist. These visits will focus on compliance with licensing rules. The agency that holds the license is responsible for maintaining compliance with the licensing rules. The licensing specialist will refer to the collaborative or interagency agreement to determine who has responsibility for maintaining child and staff records. Items addressed in the licensing rules and not specifically designated as the school's responsibility in the collaborative or interagency agreement will be monitored for compliance with the licensing rules. (See questions #21 and 22.)

20. If a district is going to use a community provider to implement 4K, how much oversight does the district have over the provider?

Schools are not relieved of their obligations for oversight of programs if community-based approaches are utilized. The school district must ensure that the required components of 4K are implemented in all of their settings. Most districts have established collaborative councils that plan and oversee these community approaches. These councils address the details of these programs and provide reports to the school board. There should also be contracts between the participating provider(s). These agreements should specify the district fiscal contribution; clarify implementation of 4K, child care licensing or Head Start performance standards; define provisions for hiring and professional development; define curriculum and program practices; and assign other roles and responsibilities.

21. What should be included in an interagency agreement for collaborative programs?

A collaboration or partnership agreement signed by all the parties in the collaborative will be used to determine who has responsibility for the collaborative program. Interagency agreements should include:

- A mission, goal or purpose statement.
- Roles and responsibilities of each agency.
- Parameters of collaboration, e.g., joint activities, shared staff expertise, shared resources.
- Programming responsibilities, e.g., building maintenance, outdoor play space requirements, transportation, parent outreach and involvement.
- Maintenance of student records.
- Staff issues, e.g., staff supervision, joint planning time, background verification.
- Timelines.
- Financial responsibility, e.g., insurance coverage, space rental, contractual arrangements.
- Definitions and / or common uses of terminology.
- Dispute resolution.

22. Who monitors for compliance with the child care licensing rules and what happens if a licensing violation is noted?

The Department of Health and Family Services, Bureau of Regulation and Licensing is responsible for monitoring licensed child care centers for compliance with the licensing rules. Licensing specialists will review interagency agreements to determine which partner in a collaborative is responsible for items covered by the child care licensing rules.

Licensed programs receive regular monitoring visits by a DHFS licensing specialist. During a monitoring visit, the licensing specialist may observe the program, check health and safety requirements and review child and staff files and other documents related to licensing rules. Violations will be noted on a statement of non-compliance issued to the licensee. Licensees are responsible for filing a plan of correction for all violations and ensuring that violations have been corrected.

23. Can fees be charged by a child care program if child care children are enrolled in a collaborative with a school district?

Yes. While child care is primarily funded by parent fees, 4K is part of the public system and is provided at no cost to families. Therefore, any child attending the collaboration only for the 4K hours of a day may not be charged tuition for the 4K program. However, child care programs typically determine that a 5 or 6 hour day is considered full-day and anything less is considered part-day. For example, in a program that does not charge by the hour, if the child participates in 4K for 2 ½ hours and is attending the child care program for an additional 6 ½ hours, the cost for child care is not reduced because the child is still in care for more than 6 hours.

24. Can child care programs access Wisconsin Shares Child Care Subsidy Program dollars when they are offering collaborative 4K for children enrolled in the child care program and Wisconsin Shares eligible children are participating in this programming?

Yes. Wisconsin Shares Child Care Subsidy policy supports the authorization of the hours of care needed while a child is in a regulated child care setting. When a child care setting additionally offers collaborative programming for Head Start or 4K programs, the full amount of hours should be authorized—up to the total amount of hours of care needed while the parent is in an approved activity. The parent is responsible for paying for any costs when the child is in care while the parent is not in an approved activity.

25. Will full-day Wisconsin Shares authorizations be made if the child is in care only part day?

No. Wisconsin Shares Child Care Subsidy authorizations only cover care for the amount of hours needed for the parent to remain in their approved activity. Full-time hours will be authorized only when the parent needs full-time care in order to be in an approved activity. Authorizations are made for the specific amount of combined hours of care needed.

26. Can Wisconsin Shares be accessed if the child is only enrolled in a Head Start program or a 4K program hours operated by a public or private school?

No. Wisconsin Shares Child Care Subsidy can not be authorized for Head Start or 4K hours that are not part of a community-based collaboration and do not offer regulated child care services.

27. If a Head Start or public school program offers “wrap-around” services to provide care to children outside of Head Start or 4K program hours, can Wisconsin Shares be used?

Yes. Wisconsin Shares Child Care Subsidy can be authorized for the hours the child attends the “wrap-around” child care program.

28. Are private school child care programs eligible to receive reimbursement from the Wisconsin Shares Child Care Subsidy program?

Private school child care programs are not eligible to receive subsidies from the Wisconsin Shares Child Care Subsidy program unless the child care program is licensed by the Department of Health and Family Services or, if the program cares for 3 or fewer children under age 7, certified by the county in which the care is provided.